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January 4, 1993

HAND-DELIVERED

Ms. Donna Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: **Broadcast Signal Carriage Issues,**
MM Docket No. 92-259

Dear Ms. Searcy:

Enclosed on behalf of Armstrong Utilities, Inc., are the original and nine copies of Armstrong's Comments in the above-referenced proceeding.

Please address any questions concerning this letter to the undersigned.

Cordially,

Stephen R. Ross

SRR/sdb
Enclosures

No. of Copies rec'd 0+9
List A B C D E

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of the Cable	)	
Television Consumer Protection	)	MM Docket No. 92-259
and Competition Act of 1992	)	
	)	
Broadcast Signal Carriage Issues	)	

COMMENTS OF ARMSTRONG UTILITIES, INC.

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SUMMARY

Armstrong Utilities, Inc. offers the following comments regarding the implementation of the must-carry and retransmission consent provisions of the 1992 Cable Act ("the Act") even though Armstrong firmly believes these provisions of the statute are unconstitutional.

Armstrong has attempted to outline herein the enormous impact of these provisions on cable operators and broadcast stations. In order to implement the Cable Act successfully, the Commission must consider the realities of the existing "marketplace," as well as preexisting obligations placed on cable operators pursuant to other Commission regulations and the Copyright Act.

For the reasons set forth herein, Armstrong urges the Commission to permit the cable operator to designate the "principal headend" for purposes of defining the geographic area within which non-commercial educational ("NCE") television stations may assert must-carry rights. This principal headend designation would also define the area of dominant influence (ADI) or television market within which a cable system is located for purposes of applying the must-carry provision to commercial broadcast stations. This is especially important for cable systems operating in more than one ADI, which would otherwise be subject to conflicting must-carry claims.

The Commission must also allow the cable operator wide discretion in signal selection and cable channel assignments.

The operator must make the final channel assignment when more than one must-carry station asserts its right to the same cable channel number. Must-carry stations only have channel positioning rights to basic tier cable channels, and the designation of the basic tier channels must be left to the cable operator.

Stations which assert must-carry rights are obligated to show that they qualify under the Act and all relevant Commission regulations. Low power television ("LPTV") stations must demonstrate to the Commission that they are eligible for must-carry status, and operators are required to carry such LPTV stations only upon a finding by the Commission that they are qualified. All broadcast stations should be required to demonstrate that their signals meet the Act's required signal quality for cable carriage.

In order for retransmission to work, television stations must have the right to grant or withhold consent. Congress, in the Act, has stated that the television station has a right to be compensated for the "value of its signal." The programmers should not be permitted to enforce or create programming contracts with television broadcasters that block the station's retransmission consent rights.

The Commission must clearly define the relationship between must-carry and retransmission consent. Stations that elect retransmission consent do not automatically obtain rights, such as channel positioning and other rights pursuant to Part 76 of the Commission's rules, which automatically flow to must-carry stations. In the retransmission consent "marketplace," all terms

and conditions will be negotiated, with the sole caveat that the contract does not interfere with the rights of must-carry stations.

The Commission must also clarify that the must-carry/retransmission consent election runs with the broadcast station. A change in ownership of the station, for example, does not provide an opportunity to change the election before the three year cycle is completed. The must-carry/retransmission consent election, as well as the terms of any retransmission consent agreement, must be binding on new station owners.

With respect to the resolution of disputes regarding retransmission consent contracts, Armstrong believes that state court jurisdiction is preempted by the Act. The Act vests exclusive jurisdiction to revolve must-carry disputes with the FCC, and Armstrong believes that the FCC should also resolve disputes concerning retransmission consent agreements. Congress has clearly occupied the field of cable television, and any contract disputes must be resolved pursuant to federal common law, not state common law. The FCC or the federal courts are the only entities with jurisdiction to consider such disputes.

Armstrong has attempted to illustrate in these comments the enormous burdens placed on cable operators to implement this Act. Undoubtedly, implementing broadcast stations' must-carry/ retransmission consent elections will alter the existing cable channel line-up for most cable operators. Adding and dropping broadcast signals from the cable system will require some system reconfiguration and service visits to add or remove 'traps' which

block certain cable channels. Substantial time is also required to notify subscribers of the addition or deletion of signals.

Because of the time required to implement these changes and notify subscribers, Armstrong urges the Commission to adopt an implementation schedule that accounts for these factors. Therefore, Armstrong submits that rules adopted by the Commission to implement the must-carry and retransmission consent provisions of the Act become effective 30 days after the release of a final report and order in this proceeding. As discussed herein, the must-carry/retransmission consent election should be required to be made 30 days after the release of the Commission's final rules. The operator should then have 90 days to implement broadcast stations' elections. Unless both the must-carry and retransmission consent regulations become effective concurrently, cable operators would be forced to reconfigure their systems on a piecemeal basis as stations choose to assert their must-carry rights up until October 6, 1993. Such a result would be unnecessarily time consuming and incur duplicative costs.

Finally, the Commission must take into account the impact of this proceeding on copyright liability. Subsequent three year election cycles for must-carry and retransmission consent, and changes in the top 100 market list should be effective either on January 1 or July 1 to coincide with the copyright reporting periods.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of the Cable Television Consumer Protection and Competition Act of 1992	)	MM Docket No. 92-259
	)	
	)	
Broadcast Signal Carriage Issues	)	

COMMENTS OF ARMSTRONG UTILITIES, INC.

I. INTRODUCTION

Armstrong Utilities, Inc. ("Armstrong"), by its attorneys, hereby submits these comments in response to the Federal Communication Commission's ("FCC" or "Commission") Notice of Proposed Rulemaking ("NPRM") in the above-referenced proceeding.

Armstrong owns and operates cable television systems throughout Pennsylvania, Ohio, West Virginia, Kentucky and Maryland. Accordingly, Armstrong is subject to the mandatory carriage ("must-carry") and retransmission consent provisions of the Cable Television Consumer Protection and Competition Act of 1992 ("the Act"), as well as any regulations promulgated by the FCC to implement these statutory provisions.

Armstrong submits the following comments in this administrative proceeding, even though Armstrong has no doubt that it is unlikely that the must-carry and retransmission consent provisions of the Act can withstand Constitutional challenge. Armstrong supports the efforts of those raising these Constitutional arguments in court, but feels it is necessary to

comment in this proceeding on the practical implementation of these provisions.

II. MUST-CARRY REGULATION APPLICABLE TO NON-COMMERCIAL EDUCATIONAL TELEVISION STATIONS

Cable television operators, depending on the channel capacity of the system, are obligated to carry a specified number of qualified, local non-commercial educational ("NCE") television stations on their cable systems.[1/] A NCE station eligible for must-carry status is one which is either: (1) licensed to a community that is within 50 miles of the cable system's "principle headend;" or (2) has a Grade B contour which encompasses the cable system's principle headend. 1992 Cable Act, Section 615(1)(2).

A. The Cable Operator Must Designate the Principle Headend of the Cable System

As the Commission recognizes, many cable systems have multiple headend facilities. NPRM at ¶ 8. The Commission has proposed to allow the cable operator to choose which headend is its "principle headend" for purposes of mandatory carriage, "as long as the choice is not intended to circumvent must-carry obligations." Id. Armstrong agrees with the Commission that the operator should

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[1/] Non-commercial mandatory carriage is subject to a Standstill Order from the three judge panel of the U.S. District Court for the District of Columbia, which is reviewing the Constitutionality of both the commercial and non-commercial must-carry rights. Turner Broadcasting Systems et al. v. F.C.C. et al., Consolidated Case Nos. 92-2247, 92-2292, 92-2494, 92-2495 and 92-2550 (D.D.C. December 8, 1992). As discussed below, any implementation of the Commission's rules for must-carry and/or retransmission consent will depend on final court action.

be allowed to choose which headend is the "principle" headend for a particular system.

The principle headend will most likely be either the headend which serves the majority of a systems' subscribers and/or the headend which accommodates the majority of the operator's signal processing functions. The cable operator, who possesses the technical information regarding the configuration of the cable system, is the most appropriate entity to make this determination. The Commission recognized this in its post-Quincy must-carry rules adopted in 1986.[2/] Notice of the designation of the principle headend should be placed in the operator's public file.

It is unlikely that the designation of the principle headend would change. Although, as the Commission is aware, the utilization of fiber optic/microwave technology often results in the creation of large cable systems serving a great number of community units.[3/] This may result in a change in the designation of the principle headend. If a change in the principle headend becomes necessary, the operator should be able to designate a different headend as the principle headend upon 30 days prior notice to its must-carry NCE (as well as commercial) stations on the system. The 30 day notice period is consistent with the notice

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2/ Amendment of Part 76 of the Commission's Rules Concerning Carriage to Television Broadcast Signals by Cable Television Systems, 1 FCC Rcd. 864, 887 (1986).

3/ Armstrong has just reconfigured its system serving Rising Sun, Maryland and Oxford, Pennsylvania using fiber optics from the principal headend to points in Maryland and Pennsylvania to provide in part separate feeds of regional sports programming of interest to Pennsylvania and Maryland residents.

requirement for the deletion and repositioning of must-carry signals.

B. Selection of Signals

Under the Act, cable systems with 12 or fewer channels must carry one (1) NCE station. Cable systems with 13 - 36 channels (medium-sized systems) must carry three (3) NCE stations. Systems with more than 36 channels (large systems) must carry "all qualified" NCE stations. Medium systems are not required to carry a state public network-affiliated station whose programming "substantially duplicates" the programming of another local NCE station affiliated with the same state public network. Similarly, large systems do not have to carry any NCE station whose programming substantially duplicates the programming of another NCE station being carried on the operator's system.

As the Commission notes in the NPRM, cable operators are likely to be faced with more NCE stations requesting mandatory carriage than they are required to carry. In this situation, Armstrong agrees with the Commission's tentative conclusion that the cable operator should have the discretion to choose which qualified NCE station(s) it will carry. The operator would inform a station requesting carriage that: (1) the operator has reached its maximum number of required NCE signals; or (2) that the station's programming substantially duplicates the programming of a carried NCE station. The cable operator should not have to justify this decision on any other grounds, such as demonstrating which station made its request first, etc.

C. "Substantially Duplicative" Programming

The Commission asks whether a station should be deemed to "substantially duplicate" the programming of another station if more than 50% of the weekly prime time programming consists of programming aired on another station. NPRM at ¶ 12. While this proposal is consistent with the Commission's move away from simultaneous non-duplication protection,[4/] Armstrong believes that the standard should be whether two stations offer 14 hours of duplicative, simultaneous or non-simultaneous, prime time programming per week. This was the definition the Commission adopted in 1986 under its then revised must-carry rules in the context of network affiliates. See NPRM at n. 33. This will balance the Act's purpose to ensure carriage of local NCEs and its interest in not burdening the operator with the carriage of stations with repetitious programming. This definition of "substantially duplicates" should apply equally to medium and large-sized cable systems for the purposes of evaluating NCE must-carry requests. Moreover, this definition should apply to commercial must-carry stations as well. One definition of "substantially duplicative" programming will avoid confusion among the interested parties.

[4/] Amendment of Parts 73 and 76 of the Commission's Rules Relating to Program Exclusivity in the Cable and Broadcast Industries, 3 FCC Rcd. 5299, 5317 (1988) recon., 4 FCC Rcd. 2711 (1989).

D. State Public Network Affiliated Stations

As noted above, medium-sized cable systems are not required to carry NCE stations affiliated with the state public television network where the programming "substantially duplicates" the programming of another local NCE station, also affiliated with the state network, which is carried on the cable system. In a number of instances, however, the cable system may be located near a state border or a tri-state area. In that case, the cable system might be required to carry substantially duplicative signals from state network affiliated NCEs from two or three different states.

For example, Armstrong's South Point, Ohio system would have to carry the state public educational stations from Kentucky, Ohio and West Virginia, all of which have local affiliates within 50 miles of Armstrong's principle headend. Between 8:00 a.m. and 3:00 p.m., these state public television network stations provide instructional programming for their respective schools systems. However, after 3:00 p.m., the programming on all of these stations is identical. Armstrong has redesigned the system so that it will be able to accommodate shortly all three state public television network stations on one cable channel through the use of fiber optics. It has technically configured its system so that its subscribers can receive separate state public network programming during the day in their state, (e.g., Ohio subscribers will receive the Ohio public network affiliate's programming between 8:00 am and 3:00 pm).

Armstrong wishes to ensure that its subscribers' children receive the proper state instructional programs. However, Armstrong does not believe it should carry one state's instructional programming to students in another state. This wastes valuable channel capacity. After school hours, the cable operator should be able to choose one specific station as its NCE must-carry signal. This would avoid prime time carriage of duplicative programming. The geographic location of a system (i.e., near state borders) should not create a penalty for the operator. Furthermore, if the operator is located in only one state, but two state NCE signals from different state authorities qualify for must-carry, the operator should be able to choose to carry the NCE station in the state where its subscribers reside.

E. Unused PEG Channels

The Act provides that cable operators may place additional NCE stations on "unused" public, educational and governmental ("PEG") channels. The FCC must provide some guidance on the definition of "unused" for purposes of determining whether additional NCE stations may be carried. In some cases, channels reserved for PEG use do not offer any "real" programming. Rather, the franchise authority or other municipal entity places identical automated, electronic "billboard" type notices on each of the PEG channels. In lieu of two or three channels which scroll the same information, cable operators should be permitted to placed additional NCE stations on PEG channels which would otherwise exhibit wholly duplicative "billboard" notices.

Any NCE station placed on an unused PEG channel would take the channel on a "may-carry" basis. The NCE station would not have any of the other must-carry rights (e.g., channel positioning, etc.), and could be removed from the channel on 30 days prior notice in the event that a PEG user wished access. The Commission may wish to consider a rule providing for NCE use of a PEG channel if it is used rarely for live and for taped purposes.

F. Notice Requirements

Comments were requested regarding what procedures should be adopted by which the cable operator would notify NCE stations, as well as subscribers, of which signals were being carried pursuant to the must-carry requirements of the Act. Armstrong respectfully suggests that the cable operator's list of must-carry NCE and commercial stations should be placed in the operator's public file. This will enable the public to learn what signals are being carried present to the rules without additional expense.

III. MUST-CARRY REGULATION APPLICABLE TO COMMERCIAL TELEVISION STATIONS

Section 614 of the Act requires cable systems to carry a specified number of local commercial television stations and qualified low power television (LPTV) stations. Systems with 12 or fewer channels must-carry three (3) stations; systems with more than 12 channels must devote up to one-third of their channel capacity for commercial must-carry signals.

A. Provision of Converters

The Act provides that all cable television subscribers be able to access all must-carry signals. If a converter is necessary to receive these signals, then the operator must notify its subscribers that a converter is necessary to receive certain signals, and "shall offer to sell or lease a converter box to such subscribers at rates in accordance with the standards established by the Commission." NPRM at ¶ 16.

Notifying subscribers that a converter would be required to access certain must-carry signals is most effectively and economically implemented by providing such notice in the subscriber's monthly bill. Second, the Commission should clarify that the requirement that the operator offer to sell or lease the required converters may be satisfied when the cable operator informs the subscriber where a converter may be purchased, if the operator chooses not to stock such converters. The operator should not be required to maintain stock of this equipment to sell or lease to subscribers if the equipment is available from other retailers. Further, this requirement to either provide converters or inform the subscribers where the converter may be purchased, cannot go into effect until the FCC adopts standards for rates for this equipment in its rate making proceeding.[5/]

[5/] The operator should not be required to identify retail stores by name, but should be able to satisfy the notice requirement by referring to the type of stores which sell converters (i.e., "consumer electronics stores").

B. Location of the Cable System

For the reasons discussed above in relation to NCE stations, the cable operator must be permitted to designate which of its facilities is the "principle headend" for purposes of determining which commercial stations are qualified for must-carry status. Reserving the choice for the operator is consistent with past Commission policy.[6/] In most cases, such a designation is based on the factual matter of where the signal processing equipment is located and/or where the system's majority of subscribers are located. The operator is in the best position to make this determination. As noted earlier, this designation is unlikely to change.

Furthermore, defining the location of a cable system based on the location of the principle headend is especially important in the commercial television context. Otherwise, as the Commission correctly notes, a technically integrated cable system serving more than one Area of Dominant Influence ("ADI" or television market) would be subject to "potentially inconsistent carriage obligations." NPRM at ¶ 17.[7/] Attempting to accommodate carriage requests from broadcast stations in two or three ADIs would be virtually impossible for the cable operator to implement. Limiting a cable system to must-carry obligations from stations in one ADI will result in a more consistent application of the

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[6/] See note 2, supra.

[7/] Armstrong, has this problem in 40% of its systems. The problem is obviously not an isolated incident to be handled by special relief petitions.

requirements of the Act. The carriage of other signals should be left to the retransmission consent "marketplace."

Additionally, application of the Act would be uniform throughout the system for carriage purposes when the location of the system is defined by principle headend. Placing demands on the cable system for the carriage of signals in excess of the capacity required by the Act was not the intention of Congress. Moreover, implementing broadcasters' rights to mandatory carriage may be slowed if disputes among stations for scarce channel capacity must first be resolved by the Commission.

Second, the Act provides that both commercial and NCE must-carry stations have certain channel positioning rights. As discussed below, accommodating channel positioning requests from stations in one ADI, consistent with the operator's broadcast tier, presents enormous difficulties. The cable operator will have even greater difficulties trying to accommodate multiple, conflicting requests for certain cable channels from stations in two or more ADIs.

Third, there is nothing in the legislative history of the Act that indicates Congress intended that cable operators would be subject to must-carry obligations from stations in multiple markets. In defining the term "local television station," Congress limited the pool of stations eligible for must-carry status to stations operating in a community of license which "is within the same television market as the cable system." Section 614(h)(1)(A). Since Congress used the term "market" in the singular, the

implication is that each cable system would fall within one market, and the majority of cable systems do fall within one television market. However, there are also a significant number of cable systems that fall within more than one ADI, and these systems should not be penalized by virtue of their geographical location.

In addition, one of the supposed reasons which Congress sought to address in the 1992 Act was their belief that broadcast stations were losing revenue because they were unable to effectively compete with cable systems for scarce advertising dollars. When stations in multiple ADIs must compete with each other for the limited number of must-carry cable channels set aside under the Act, these stations are also competing for the same advertising money. On the other hand, if television stations are only competing with stations in their own ADI for carriage on the cable system, then their competitive position is strengthened.

Finally, as discussed below, the Act provides for procedures for modifying an ADI to further the purposes of the Act. The fact that Congress provided procedures to address possible inequities resulting from the composition of a particular ADI demonstrates that Congress recognized the general rule that one market per cable system may be modified upon the proper showing. Thus, for example, a station that has historically been carried on a system, but which falls outside the ADI in which the cable system

is located and would have to be dropped from the system, may petition the FCC for relief.[8/]

For the foregoing reasons, Armstrong respectfully submits that the only workable definition regarding the location of the cable system for purposes of applying the must-carry rules, must be the ADI in which principle headend is located.

C. Modification of ADIs

The Act permits the FCC to modify Arbitron's ADI list to add or subtract counties and/or communities from a station's market. Armstrong supports the Commission's proposal to use the special relief procedures set forth in Section 76.7 of the Commission's rules. Armstrong also believes that either the broadcast station or the cable operator should be permitted to file such a request.

With respect to applying the four factors set forth in the Act for reviewing requests to modify an ADI, Armstrong asserts that any tests required to determine a station's viewability must be based on an over-the-air standard. Consistent with the Commission's policies in the past, this standard should preclude the use of translators. Translators, except for certain NCE translators, have no must-carry rights and should not form the basis for carriage of the station. The broadcast station's off-air signal should reach the cable operator's principle headend at the

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[8/] Of course, the station could grant retransmission consent to carriage by the cable operator. Armstrong, in many cases, might grant such requests if its subscribers wished to view the station.

required signal strength levels defined in the Act. Otherwise, as the Commission recognizes, stations hundreds of miles from the cable system's principle headend may qualify for must-carry status. Such a result is clearly inconsistent with the Act's purpose to foster localism.

In addition, Arbitron modifies its ADI list once a year. However, the Act permits broadcast stations to elect must-carry or retransmission consent only once every three years. If a county changes ADI, a broadcast station's status relative to whether it is eligible for must-carry rights could change. Therefore, Armstrong proposes that any ADI changes reflected in Arbitron's annual list would not be effective until the three-year must-carry/ retransmission consent election period expires. Thus, if a county changes ADI during the three-year period, the status quo should be maintained until the end of the three-year cycle. Further, as discussed at p. 30, infra, the must-carry/retransmission election must be effective well ahead of the January 1, 1994 copyright period. Operators must be given sufficient time to implement changes in the event stations must be added or dropped from the system. Any subsequent election cycles should take into account the January 1 and July 1 compulsory copyright license deadlines. (See discussion on p. 30, infra.)

D. Modification of The Top 100 Market List

The Act also requires the Commission to update the top 100 market list contained in Section 76.51 of the Commission's rules. Modification of this list will affect the cable operator's

copyright liability for the carriage of television signals. In some cases, a signal could lose its status as a "local" signal under the compulsory copyright license, and other distant "permissible" signals could become "impermissible" signals.

Armstrong suggests that the Commission update the top 100 market list every three years, consistent with the must-carry/ retransmission consent election period. Moreover, the effective date of any change must be consistent with the January 1 or July 1 semi-annual copyright statement of accounts periods. This is necessary because, as specified in the Act, the cable operator is not required to carry the signal of a must-carry broadcast station if the station does not agree to indemnify the cable operator for copyright liability resulting from the system's carriage of a distant signal. Therefore, unless the implementation date for any change in the Section 76.51 list is consistent with both the election period and the copyright statement of accounts period, both the cable operator and the broadcast station will be uncertain of the amount of copyright liability.

E. Syndicated Exclusivity and Network Non-Duplication

By permitting local television stations to choose between must-carry and negotiated carriage based on retransmission consent, the Act has created a serious conflict with other rules relating to the manner of carriage of television stations. All other non-local stations, except "superstations," can only be carried if they grant retransmission consent to the cable operator. In some cases, stations that are seeking carriage under must-carry can be blacked

out under existing network non-duplications and/or syndicated exclusivity rules by a station outside the ADI (and thus ineligible for must-carry status) that encompasses the cable system or a portion thereof within its thirty-five mile primary or fifty-five mile secondary zone.[9/] At other times, a station that does not grant retransmission consent to the carriage of its programming could assert similar protection rights, even though it would deprive the public altogether of access to a particular program.[10/]

Retransmission consent as a concept allows the parties to negotiate all the possible terms of carriage (e.g. channel positioning, etc.). The marketplace must be left free and unfettered for both parties to negotiate any and all FCC rules that cover the manner and conditions of carriage under Part 76 of the rules.[11/] Rules such as network non-duplication protection cannot apply if the retransmission negotiations are to take place in the truly competitive environment envisioned by Congress. The Commission recognizes this issue when it raises the inconsistency between a must-carry station asserting its rights only to be

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[9/] The secondary zone only applies to smaller market television stations with respect to their network non-duplication rights.

[10/] As Congress has acknowledged by abolishing the A/B switch requirement, carriage of a signal over the air via a subscriber antenna using the A/B switch to reach off the air signals is not a very good means of receiving such programming.

[11/] The Senate in the 1991 legislative history of S.12 indicates it desire "to establish a marketplace for the disposition of rights to retransmit broadcast signals." Cable Television Consumer Protection Act of 1991. Report 102-92 (page 36).

blacked out by a another network station from outside the ADI asserting network non-duplication and/or syndex rights. Only a station that is carried pursuant to must-carry should have full rights under Part 76 of the Commission's rules. This would include channel positioning, network non-duplication, syndex and/or carriage of the signal in its entirety.

F. Definition of Network

Under the Act, cable operators are not required to carry: (1) commercial signals which "substantially duplicate" the programming of another local signal carried on the system; or (2) more than one station affiliated with the same "network." As discussed previously with respect to NCE stations, Armstrong suggested that the Commission define "substantially duplicates" as any duplicative programming (simultaneous or non-simultaneous) exhibited during weekly prime time hours (6:00 p.m. to 11:00 p.m.) for a total of 14 hours. As Armstrong asserted above, this definition of "substantially duplicates" should apply to commercial stations as well.

Armstrong submits that the definition of a "network" for purposes of construing must-carry obligations, should also be the same as "substantially duplicates." One definition applicable to all three contexts, i.e., NCE, commercial and duplicative network programming, will be inherently easier to implement. Each of the definitions proposed by the Commission are very similar, and there appears to be no difference among them in the underlying policy rationale. The stated purpose of this provision of the Act is